

106A. ANIMALS

106A.01. Definitions. Subdivision 1. As used in this chapter, the terms defined in this section shall have the following meanings ascribed to them. "Animal" means any living creature, excluding humans and plants.

Subd. 2. "Animal Control Officer" means any employee of the City of Rochester who holds that employment position and job classification within the City of Rochester.

Subd. 3. "Animal Control Unit" means that operational unit or any employees of the City of Rochester assigned to that unit within the Rochester Police Department that is primarily responsible for responding to animal related problems and the enforcement of chapter 106 and related ordinances and statutes.

Subd. 4. "At large" means on or off the premises of the owner and not under the control of the owner or some other person of suitable age and discretion by command or by leash, chain, cable, fence, kennel or other suitable enclosure. An animal enclosed within a residence, dwelling, business or other structure so that it cannot leave on its own volition shall not be considered "at large".

Subd. 5. "Breeder" means any person who raises litters of animals from birth through weaning with the intention of doing so as a business for profit.

Subd. 6. "By Command" means when the owner is walking, jogging or bicycling on public property or private property of another, a dog must be within six (6) feet of its owner at all times. When on its owner's property or fetching and playing on public property, the dog must be visible to the owner and be within thirty (30) feet of the owner or another person responsible for control of the dog. Dog must always return to the owner so that a leash can be attached, on no more than two (2) voice commands. Any dog declared potentially dangerous or dangerous must never be off its leash.

Subd. 7. "Owner" means any person owning, keeping, harboring or maintaining an animal within the City or permitting such animal to be at large within the City. An animal shall be deemed to be harbored if it is fed or sheltered for three days or more.

106A.02 Permitted Domesticated Animals. Subdivision 1. Any person may own, keep, harbor or maintain any domesticated animal that is not susceptible to rabies.

Subd. 2. Any person may own any domesticated animal which is susceptible to rabies if it can be vaccinated for rabies and it has been vaccinated with a vaccine licensed for use specifically for that species of animal. Based on current knowledge, the following animals can be legally vaccinated for rabies: dogs, cats, ferrets, cattle, sheep and horses. However, the latter three are considered livestock and therefore not permitted in the city due to zoning regulations.

Subd. 3. It shall be unlawful to own, keep, harbor or maintain any domesticated animal which is susceptible to rabies and which has not been vaccinated with an approved vaccine. However, the keeping of pigeons shall be permitted in accordance with Chapter 113 and the keeping of chickens shall be permitted in accordance with Chapter 113A.

106A.03 Ownership Limits. Subdivision 1. No person shall keep nine or more multiple animals over the age of six months within any household in the City of Rochester. The term "multiple animals" means two or more cats, dogs or ferrets. Notwithstanding any provision to the contrary, no person shall keep six or more dogs over the age of six months within any household in the City of Rochester. These limits do not apply if a breeder's permit is applied for and issued pursuant to Section 106A.19. For the purposes of this section, the term "household" refers to a single family residence or single unit of a town home, condominium, apartment or comparable structure which is rented, leased or used as a single unit. This Section shall not be construed to limit the ability of apartment managers, landlords, town home associations or other representatives of property owners to impose greater restrictions.

Subd. 2. Any person who owned six, seven or eight dogs prior to the effective date of this ordinance shall be permitted to keep those animals provided that those animals resided in that household and were properly licensed prior to November 15, 2006. No person affected by this subdivision shall be permitted to acquire any additional dogs or to replace any dogs in excess of five except as provided under 106A.19 (breeder's permit) or as specifically authorized by the City Council.

Subd. 3. Any person who moves into the City of Rochester may bring into the City any number of cats, dogs or ferrets that do not exceed the limits identified in this Section. The animals must be properly licensed within 30 days of establishing residence in the City.

Subd. 4. Any person who currently owns cats, dogs or ferrets who becomes a resident of the City by annexation shall be permitted to keep those animals provided that those animals are properly licensed within 30 days following approval of the annexation. No person affected by this subdivision who owns more than five dogs, or a total of eight cats, dogs or ferrets, shall be permitted to acquire any additional cats, dogs or ferrets or to replace any cats, dogs or ferrets in excess of the limits established in this Section except as provided under 106A.19 (breeder's permit) or as specifically authorized by the City Council.

Subd. 5. Persons who are not defined as breeders as set forth by 106A.01 may breed any properly licensed cat, dog or ferret and raise litters. The total number of cats, dogs or ferrets kept within the household must be reduced to the limits established in this Section within six months of birth. (3793, 11/6/06)

106A.04 Prohibited Wild Animal. Subdivision 1. It shall be unlawful to keep any wild animal within the City limits, except as permitted pursuant to the provisions of this section.

Subd. 2. As used in this section, "wild animal" shall have the following meaning: Any

animal, mammal, amphibian or reptile which is of a species which is wild by nature or of a species which due to size, vicious nature or other characteristics is inherently dangerous to human beings. Examples of wild animals, without limitation, are:

- (a) Any large cat of the family Felidae, such as lions, tigers, jaguars, leopards, cougars and ocelots, except domestic house cats;
- (b) Any member of the family Canidae, such as wolves, hybrid wolves, coyotes, dingoes and jackals, except domesticated dogs;
- (c) Any crossbreed such as crossbreeds between dogs and coyotes, dogs and wolves, but does not include crossbred domesticated animals;
- (d) Any poisonous snake including but not limited to rattlesnakes, coral snakes, water moccasins, puff adders or cobras.
- (e) Any skunk, raccoon, fox or animal protected under State of Minnesota or Federal wildlife regulations.
- (f) Any bear, ape, monkey in excess of five (5) pounds, or badger.
- (g) Any porcine including but not limited to pot-bellied pigs.
- (h) Any other animal, bird or reptile which is commonly considered wild and not domesticated.

Subd. 3 Exceptions to Definition of Wild Animal are:

- (a) Nonpoisonous snakes, domesticated birds, hamsters, mice, rabbits, lizards, spiders and other similar small animals capable of being kept in cages including rats, if purchased from a bona fide pet store;
- (b) Medically prescribed companion animals;
- (c) Wildlife rehabilitators may only possess animals with a Minnesota Department of Natural Resources permit. Such animals will be kept in a manner as to not create unsanitary conditions or unreasonable noise;
- (d) Birds and birds of prey if kept pursuant to a valid US Fish and Wildlife Services permit;

106A.05 Licenses Subdivision 1. License Requirements. It is unlawful for any person to keep, harbor or maintain a dog, cat or ferret over the age of four months unless it is licensed as hereinafter provided. However, if the animal is harbored or kept on the premises of a recognized Humane Society shelter or pet store it need not be licensed. Licenses for such dogs, cats and ferrets may be issued by the city clerk, the animal control unit and any

licensed veterinarian authorized by the city clerk. Applications for licenses shall be made on forms approved by the city which shall require the name and address of the owner, the name, breed, age, color, and sex of the dog, cat, or ferret and such other information as may be considered necessary. License applicants shall also provide proof of compliance with the vaccination requirements of Section 106A.06.

Subd. 2. Licenses for Non-Licensed Impounded Animals. Animal control officers shall issue licenses for animals which have been impounded prior to their release which have not been previously licensed according to the requirements of this chapter and shall charge the fee appropriate for a two year license.

Subd. 3. License Term and Fees. A dog, cat or ferret license shall be valid for the period indicated on the rabies vaccination certificate, or two years, whichever comes first. The fee for a license shall be set by resolution of the City Council. If the owner presents a rabies certificate which expires within two years from the date of license issue, the license shall expire upon expiration of the vaccination certificate and no refund shall be due.

Subd. 4. Fee Reduction for Spay/Neuter. Any person who owns a cat or dog and spays or neuters the animal may license it as a spayed or neutered cat or dog. The license fee shall be reduced by the amount specified by resolution of the City Council. Any person desiring to license a cat or dog as spayed or neutered must first provide a veterinarian's certificate, or receipt or other reasonable documentation showing that the cat or dog has been spayed or neutered. There will be no refunds due if animal is spayed or neutered during current license period.

Subd. 5. Renewals. Any person who licenses a dog or cat as spayed or neutered need not provide veterinary proof for license renewals unless the cat or dog license has been revoked for falsely licensing the animal as spayed or neutered or there is reason to believe that an animal has not been spayed or neutered.

Subd. 6. Revocation of licenses and permits. Any person making any false statement on any license or permit application required by this chapter shall be guilty of a misdemeanor. The City Clerk shall revoke any license or permit issued under this chapter if the owner has made any false statement on the license application. No refund of any fees shall be due to any licensee or permit holder whose license or permit has been revoked.

Subd. 7. Reinstatement of licenses and permits. Any person whose license or permit has been revoked under subdivision 6 may reapply for such license or permit after all deficiencies have been corrected. Any person making application after any revocation shall follow the procedures set out for the initial issuance of the permit or license and shall pay the fees in the full amount that would be required for an original application.

Subd. 8. Transfer of License. The license of any dog, cat or ferret, licensed by the City of Rochester may be transferred to a new owner for the duration of that license. The transfer will be complete when the information regarding the new owner is filed with the City Clerk.

The fee for license transfers shall be set by resolution of the City Council.

Subd. 9. Service Dog. Any properly identified service dog that aids persons who are totally or partially blind or deaf, or who have physical or sensory disabilities will be issued a dog license at no charge upon proof the dog has been certified as a service dog and has received a current rabies vaccination. (3801, 1/3/07)

106A.06. Vaccination Certificates, Fees and Enforcement.

Subdivision 1. Rabies vaccination required. It is unlawful for any person to keep, harbor or maintain any animal over the age of four months which is susceptible to rabies unless that animal has been vaccinated against rabies at least every 24 months, unless otherwise specified by a licensed veterinarian.

Subd. 2. Rabies vaccination certificate to accompany license application. Each application for a dog, cat or ferret license must be accompanied by a rabies certificate from a qualified veterinarian showing that the animal has been vaccinated against rabies. No dog, cat or ferret shall be licensed which has not been vaccinated as required by this chapter within the 24 month period immediately preceding the date application for license is made.

Subd. 3. Impounded animals exception. However, an exception to subdivision 2 shall be made for impounded animals that were previously unlicensed which are being released from the Animal Shelter. Animal Control shall issue a license to the person who claims the animal on the condition that the claimant provides a rabies vaccination certificate to Animal Control within ten (10) days from the date of release. It shall be unlawful for any person to claim an animal from the Animal Shelter without providing a rabies vaccination certificate for the animal to the Animal Shelter within ten (10) days of the animal's release.

106A.07 Tags. Subdivision 1. With each license, the city clerk, the animal control unit or authorized veterinarian shall issue a metal tag bearing the license number of such dog, cat or ferret. The animal shall wear a collar or harness on which the license tag is affixed except when the dog, cat, or ferret for which the license is issued is indoors on the premises of the owner.

Subd. 2. No person shall counterfeit the metal tags provided for in this section or use a counterfeit tag, or take from any dog, cat or ferret a tag legally placed upon it by its owner or place a tag so taken upon another dog, cat or ferret.

Subd. 3. Replacement tags. Lost or destroyed license tags may be replaced at the City Clerk's Office after the owner and animal information is transferred to a new tag number. The fee for duplicate tags will be set by resolution of the City Council.

106A.08. Running at Large. Subdivision 1. No owner of any animal, except a licensed cat, whether kept, harbored, or maintained within or without the city, shall permit or suffer such animal to run or move at large at any time within the city. For the purpose of this section, every such animal at large shall be deemed at large with the permission and at the

sufferance of its owner, and in the event of a violation of the provisions of this section, it shall be no defense that the offending animal escaped or is otherwise at large without the permission or sufferance of its owner.

Subd. 2. Running at large, licensed cat. Notwithstanding the provisions of subdivision 1 of this section, the owner of a licensed cat shall not permit such animal to be at large on public property or on the private property of another unless the owner of such property actually consents thereto.

106A.09. Condition of Premises: Excrement. Subdivision 1. Dog and Cat Excrement. It is unlawful for any person who owns or has custody of a dog or cat to cause or permit such animal to defecate on any private property without the consent of the property owner or on any public property, unless such person immediately removes the excrement and places it in a proper receptacle. The provisions of this subdivisions shall not apply to seeing-eye dogs under the control of a blind person or dogs while being used in city police activity.

Subd. 2. Penalty. Violation of this section shall be a petty misdemeanor.

106A.10. Barking Dogs. Subdivision 1. It shall constitute a nuisance and be unlawful if any dog barks, whines, howls, bays, cries or makes other noise excessively so as to cause annoyance, disturbance or discomfort to any individual provided that such noise lasts for a period of more than five minutes continuously or intermittent barking that continues for more than one hour and is plainly audible outside the property limits of where the dog is kept. It shall not be a violation of this section if the dog was barking, crying or making other noise due to harassment or injury to the dog or a trespass upon the premises where the dog is located.

Subd. 2. Penalty. A first time violation of this section shall be deemed a petty misdemeanor.

Subd. 3. Seizure of Barking Dogs - Noise Abatement. Any police officer or animal control officer may enter onto private property and seize any barking dog, provided that the following conditions exist:

- (a) There is an identified complainant other than the police or animal control officer making a contemporaneous complaint about the barking;
- (b) The officer reasonably believes that the barking meets the criteria set forth in subd. 1.;
- (c) The officer can demonstrate that there has been at least one previous complaint of a dog barking at this address on a prior date;
- (d) The officer has made reasonable attempts to contact the owner of the dog(s) or the owner of the property and those attempts have either failed or have been

ignored;

- (e) The seizure will not involve forced entry into a private residence. Use of a passkey obtained from a property manager, landlord, innkeeper, or other person authorized to have such a key shall not be considered as a forced entry;
- (f) No other less intrusive means to stop the barking is available, and;
- (g) Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the dog is not possible.

Subd 4. Disposition of Seized Animals. Any dog seized under the provisions of subdivision 3 shall be taken to the animal control shelter and kept there to be reclaimed by the owner. No impound fee shall be charged unless the circumstances indicate that the owner failed to cooperate with or obstructed an animal control or police officer's attempts to abate the noise through other less intrusive means. The owner shall pay all other fees required under 106A.14. Any dog seized under subdivision 3 which is unclaimed may be disposed of according to the provisions of 106A.15.

106A.11. Abuse/Neglect of Animals. Subdivision 1. Food. Animals must be provided with food of sufficient quantity and quality to allow for normal growth and maintenance of body weight.

Subd. 2. Water. Animals must be provided with clean, fresh water in sufficient quantity to satisfy the animal's needs or supplied by free choice. Snow or ice is not an adequate water supply.

Subd. 3. Transportation. Animals must be contained within the passenger section of any vehicle or placed in crates or carriers of sufficient size to accommodate the animal. Animals carried in open vehicles, including trucks, boats, motorcycles, dirt bikes, trailers, etc., must be restrained in a crate or carrier or restrained by a chain or cable to prevent the animal from leaving the vehicle or being tossed out.

Subd. 4. Shelter. Animals must be provided with shelter at all times during inclement weather. The shelter must be large enough to comfortably accommodate the animal, be windproof and waterproof and contain enough bedding to provide the animal with insulation against the elements. Shade must be provided at all times during the months of May through October.

Subd. 5. Sanitation. It shall be unlawful for any person to allow food or water receptacles, kennels, yards or the premises where the animal is kept to be or to remain in an unhealthy, unsanitary, or obnoxious condition or to permit the premises to be in such condition that obnoxious odors can be plainly detected on adjacent public or private property.

Subd. 6. Enforcement. An animal control officer or a police officer may issue a citation

to the owner of any animal and/or remove any such animal from any premises if the welfare of that animal is threatened due to a violation of this section.

Subd. 7. Reclaiming Neglected Animals. Any animal removed from any premises pursuant to subdivision 6, may be reclaimed by the owner within five working days from the time the animal was taken, provided that all conditions for which the animal was removed have been corrected. The owner shall also be liable for payment of all boarding fees to the City. Any animal not reclaimed within the time allowed may be disposed of pursuant to Section 106A.15.

Subd. 8. Abandonment. Any animal left at the Animal Shelter by the owner, keeper, or caretaker beyond five working days after being notified as required by Section 106A.14, shall be deemed abandoned and may be disposed of according to Section 106A.15. The owner shall be liable for payment of all fees and expenses incurred by the city for the care and/or disposal of the animal.

106A.12. Apprehension of Animals. Subdivision 1. Seizure of Animals at Large. An animal control officer may apprehend and take possession of any animal at large. Any animal apprehended by an animal control officer may be conveyed to the city animal shelter to be there confined until released or disposed of as hereinafter provided.

Subd. 2. Seizure of Unlicensed or Unvaccinated Animals. Any animal control officer or police officer may seize any animal which is not licensed or not vaccinated or the possession of which is prohibited within the City of Rochester provided that the officer can demonstrate that the owner or other person in control of such animal has been warned or cited for at least three previous violations of 106A.05 or 106A.06. Any animal seized under this section shall be taken to the shelter and held according to the provisions of 106A.14. Any other prohibited animal shall be confined by the Animal Control Unit in an appropriately secure place and disposed of according to Minnesota law.

106A.13 Notice of Apprehension. Subdivision 1. Licensed Animals. Within 48 hours after apprehending any licensed dog or cat pursuant to Section 106A.12, the Animal Control Unit shall make reasonable efforts to contact the owner at the address/telephone number listed when the animal was last licensed.

Subd. 2. This section repealed by Ordinance #3739 on November 7, 2005.

106A.14. Reclaiming Animals from the Animal Shelter Subdivision 1. Within the time limit set forth in Section 106A.15, the owner of any animal seized pursuant to this chapter may retrieve the animal from the city animal shelter, provided the owner first purchases the appropriate license, pays all impound fees to cover the cost of apprehending the animal, boarding fees to cover the cost of sheltering the animal, pays any veterinary costs incurred by the City, and pays any other costs incurred by the City. Additionally, if vaccination is required, the owner must make arrangements to have the animal appropriately vaccinated by a veterinarian in the presence of an animal control officer prior to being released from the

shelter. Any owner who fails to comply with these requirements within five working days shall be deemed to have forfeited any property right to the animal and the City may dispose of it pursuant to 106A.15.

Subd. 2 The council may from time to time amend the fees and penalties set forth in subdivision 1 by resolution. A copy of the resolution setting forth the currently effective fees shall be kept on file at the animal shelter.

106A.15 Disposing of Unclaimed Animals. If any animal apprehended by the Animal Control Unit is not claimed by its owner within five days after the date of apprehension, excluding holidays or other days the animal shelter is closed, the Animal Control Unit shall cause the animal to be destroyed in a humane way or may allow the animal to be adopted by any other interested person over the age of 18 after payment of such fees as may be determined by the Council.

106A.16 Offenses. Subdivision 1. No person shall break open the animal shelter or attempt to do so, or take or attempt to take from an animal control officer or any police officer or any other authorized representative of the city, any animal taken up or apprehended in compliance with this chapter or in any manner intentionally interfere with or hinder such persons in the discharge of their duties under this chapter.

Subd. 2. Citations for Certain Violations. The Animal Control Unit is authorized to issue a citation to any person, firm, or entity for any alleged violations of this chapter and any other ordinance or statute which provides the basis for prosecution of violations of this chapter. Nothing within this chapter shall be construed to limit the authority of police officers to enforce any provisions of this chapter or related statutes or ordinances.

106A.17 Animal Bites. Whenever any animal shall have bitten a person or there is good reason to believe that such animal has bitten a person, such fact shall be reported with 24 hours to the county health department and thereafter the owner of such animal shall comply with the instructions of said department concerning such animal.

106A.18. Dangerous Dogs. Subdivision 1. Definitions. For the purposes of this ordinance, the terms defined in this section shall have the meanings given them.

(a) "Dangerous dog" means any dog that has:

(1) without provocation, inflicted substantial bodily harm on a human being on public or private property; or

(2) killed a domestic animal without provocation while off the owner's property; or

(3) been found to be potentially dangerous, and after the owner has been sent notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or other domestic animals.

(b) "Potentially dangerous dog" means any dog that:

(1) when unprovoked, inflicts bites on a human or domestic animal on public or private property; or

(2) when unprovoked, chases or approaches a person upon the streets, sidewalks or any public or private property, other than the dog owner's property, in an apparent attitude of attack; or

(3) has a known propensity, tendency or disposition to attack without provocation causing injury or otherwise threatening the safety of humans or other domestic animals.

(c) "Proper enclosure" means securely confined indoors or in an enclosure which has flooring that prevents digging, sides which prevent chewing or exit through them, secured with a covering which prevents escape and provides protection from the elements. This enclosure must be locked. A porch, patio, house, garage or other structure that cannot be locked or has walls, windows or doors that are not substantial enough to prevent the escape of the dog shall not be considered a proper enclosure.

(d) "Owner" means any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having care, custody or control of a dog.

Subd. 2. Notice of Potentially Dangerous or Dangerous Dogs. If after an investigation conducted by an animal control officer or police officer, it is determined that a dog is potentially dangerous or dangerous according to the criteria described in 106A.18 Subd. 1 (a) or (b), the Animal Control Unit will serve a notice of intent to declare the dog potentially dangerous or dangerous dog on the owner of the dog in question. This notice shall inform the owner of this designation, the basis for the determination, the procedures for contesting the designation as described in Subd. 3 and the result of the failure to contest the designation as described in Subd. 4.

Subd. 3(a). Contesting Declaration of Dangerous or Potentially Dangerous Dogs. If the owner of a dog has received a notice of intent to declare a dog as a potentially dangerous or dangerous dog, the owner may request that a hearing be conducted to determine whether or not such a designation is justified. This request must be made in writing and delivered to the supervisor of the animal control unit within 14 days of receipt of the notice of intent to declare a dog as potentially dangerous or dangerous.

Subd. 3(b). Initial Review. Upon receipt of such request, the supervisor of the animal control unit will forward the request along with all necessary supporting documentation to the City Attorney. The City Attorney will make an initial review of the evidence surrounding the notice to determine if there is sufficient evidence supporting the designation to convene a

hearing of the Animal Control Review Panel. If there is insufficient evidence supporting the designation, the City Attorney shall withdraw the designation and none of the requirements of this ordinance applying to dangerous or potentially dangerous dogs shall apply to the dog in question. If there is sufficient evidence that the Animal Control Review Panel could uphold the designation, the City Attorney will cause this notice to be brought to the attention of the Review Panel that will conduct the hearing.

Subd. 3(c). Hearing Procedure. The Animal Control Review Panel will consist of the Council President, the councilmember representing the area of the City in which the owner resides, and a veterinarian. The panel will schedule a hearing and may call witnesses and review documents as needed to make a determination on the issue. Owners shall have the right to present evidence on their behalf and to cross-examine any witnesses. A simple majority of the members of the panel is necessary for a finding that the dog is either dangerous or potentially dangerous. The burden of proof is on Animal Control. A finding supporting a designation of dangerous or potentially dangerous dog must be proven by a preponderance of the evidence. The decision of the Animal Control Review Panel shall be in writing and shall indicate the reasons for the findings. A copy of the findings shall be provided to Animal Control and the dog owner.

Subd. 3(d). Effect of Findings. If the panel finds there is sufficient basis to declare a dog as potentially dangerous or dangerous, that finding will serve as notice to the owner that the dog is in fact a potentially dangerous or dangerous dog and the owner must immediately comply with all applicable requirements of this chapter or immediately cause the animal to be humanely destroyed or removed from the City limits.

Subd. 3(e). Appeal. If the owner of the dog disputes the decision of the Animal Control Review Panel, the owner shall have the right to appeal the decision to the Rochester City Council. The appeal must be filed with the City Clerk within 14 days of the panel's ruling. If the owner of the dog disputes the findings of the City Council, the owner may appeal to the Minnesota Court of Appeals as provided by state law.

Subd. 3(f). Mayor to Appoint Veterinarian and Substitute Panel Members. The Mayor of the City of Rochester shall appoint a veterinarian to serve on the hearing panel on a voluntary basis. Such appointment shall continue in effect until the appointee resigns or is replaced by the Mayor. In the event the veterinarian is temporarily unavailable or has a personal interest in the outcome of the proceeding, the mayor may appoint another veterinarian to replace the initial appointee on the Panel. In addition, in the event the city council president or relevant councilmember is temporarily unavailable or has a personal interest in the outcome of the proceeding, the mayor may appoint other members of the city council or city staff to sit in their place.

Subd. 4. Failure to Contest Notice of Intent to Declare. If the owner of a dog receives a notice from the Animal Control Unit of the intent to declare the dog as potentially dangerous or dangerous, and the owner fails to contest that notice within 14 days, the owner shall be considered as having forfeited the right to the hearing described in subd. 3 and as having consented to the designation of the dog as potentially dangerous or dangerous by default.

The Animal Control Unit will then issue a declaration of dangerous or potentially dangerous dog to the owner and the owner must immediately comply with all applicable requirements of this chapter or cause the dog to be humanely destroyed or removed from the City.

Subd. 5. Potentially Dangerous or Dangerous Dog Designation Review. Beginning six months after a dog is declared a potentially dangerous dog or dangerous dog, an owner may request annually that the Animal Control Review Panel review the designation. The owner must provide evidence that the dog's behavior has changed due to the dog's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. If the Animal Control Review Panel finds sufficient evidence that the dog's behavior has changed, the authority may rescind the dangerous dog designation.

Subd. 6. Registration. No person may own, possess, keep, harbor, maintain or otherwise have a dangerous dog or a potentially dangerous dog in the City unless the dog is currently registered as provided in this section.

Subd. 7. The City Clerk shall issue an annual certificate of registration to the owner of the dangerous dog or potentially dangerous dog if the owner presents sufficient evidence that:

- (a) a proper enclosure exists for the dangerous dog and all accesses to the premises are posted with clearly visible warning signs issued or approved by the Animal Control Unit, that there is a dangerous dog on the property;
- (b) a surety bond to be held by the City Clerk has been issued by a surety company authorized to conduct business in this state in a form acceptable to the City Clerk and the City Attorney in the sum of at least \$50,000, payable to any person injured by the dangerous dog, or a policy of liability insurance has been issued by an insurance company authorized to conduct business in this state in the amount of at least \$50,000, insuring the owner for any personal injuries inflicted by the dangerous dog or potentially dangerous dog;
- (c) the owner has paid the annual registration fee as provided for in this section; and
- (d) the owner has had microchip identification implanted in the dangerous dog or potentially dangerous dog as required under Minn. Stat. §347.515.

Subd. 8. Fees. The City may charge the owner an annual fee, in addition to any regular dog licensing fees, to obtain a certificate of registration for a dangerous dog or a potentially dangerous dog under this section. Fees may also be charged for signs that are designated as the official symbols for posting and may be purchased from the City Clerk. These fees shall be set by resolution of the City Council.

Subd. 9. Tag. A dangerous or potentially dangerous dog registered under this section

must have a tag, issued by the City Clerk, identifying the dog as dangerous. This tag must be affixed to the dog's collar. The collar must be worn by the dog at all times.

Subd. 10. Seizure of Dangerous or Potentially Dangerous Dogs and Violations. An animal control officer or any police officer may immediately seize any dangerous or potentially dangerous dog and/or issue a citation to the owner of any dangerous dog if:

- (a) within 14 days after the owner has received notice that the dog is dangerous, the dog is not validly registered under subdivision 6; or
- (b) the dog is not maintained in a proper enclosure; or
- (c) the dog is outside the proper enclosure and is not muzzled and restrained by a substantial chain or leash and under the physical restraint of a responsible person; or
- (d) 14 days after the owner has received notice that the dog is dangerous or potentially dangerous, the owner does not secure the proper liability insurance or surety bond as required in 106A.18 subd. 7(b); or
- (e) after the owner has been notified that the dog is dangerous or potentially dangerous, the dog bites or attacks a person or domestic animal.

Subd. 11. Confiscation and Destruction of Dangerous Dogs. If the owner of a dangerous dog is convicted of a crime for which the dog was originally seized, the court may order that the dog be confiscated and destroyed in a proper and human manner, and that the owner pay the costs incurred in the confiscating, confining, and destroying the dog.

Subd. 12. Exemptions. Dogs may not be declared dangerous or potentially dangerous if the threat, injury or damage was sustained by a person;

- (a) who was at the time of injury committing or attempting to commit a willful trespass or other tort or crime upon the premises occupied by the dog; or
- (b) who was provoking, tormenting, teasing, abusing or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, teased, abused or assaulted the dog;
- (c) who was committing or attempting to commit a crime.

Subd. 13. Law Enforcement Exemption. The provisions of this section do not apply to trained dogs used by law enforcement personnel officials for police work.

Subd. 14. Apprehension. Notwithstanding the provisions set forth in subdivisions 1 through 11, any animal control officer or any police officer is authorized and empowered to kill any animal which because of disease or viciousness constitutes an immediate threat to

human life or safety or the life or safety of another domestic animal and cannot be safely taken up and impounded by other reasonable means. In such case, the owner shall be liable for any and/or all penalties provided by law.

Subd. 15. Destruction of Dog in Certain Circumstances. Notwithstanding the provisions set forth in this chapter, a dog that inflicts substantial or great bodily harm (as those terms are defined in Minn. Stat. §609.02) on a human being without provocation may be destroyed in a proper and humane manner by Animal Control. Animal Control shall issue a notice of intent to destroy the dog to the dog's owner. The owner shall have three days from receipt of the notice to request a hearing before the Animal Complaint Review Panel. The owner shall have the burden of establishing that the exemptions in Subd. 12 apply to this incident, or that the dog would not otherwise be declared dangerous following a hearing conducted for that purpose.

Subd. 16. Dangerous and Potentially Dangerous Dogs; Requirements

(a) An owner of a dangerous or potentially dangerous dog shall keep the dog, while on the owner's property, in a proper enclosure. If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash and under the physical restraint of a responsible person. The muzzle must be made in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration.

(b) An owner of a dangerous or potentially dangerous dog must renew the registration of the dog annually until the dog is deceased. If the dog is removed from the jurisdiction, it must be registered as a dangerous or potentially dangerous dog in its new jurisdiction.

(c) An owner of a dangerous or potentially dangerous dog must notify the animal control authority in writing of the death of the dog or its transfer to a new jurisdiction within 30 days of the death or transfer, and must, if requested by the animal control authority, execute an affidavit under oath setting forth either the circumstances of the dog's death and disposition or the complete name, address, and telephone number of the person to whom the dog has been transferred.

(d) An animal control authority may require a dangerous or potentially dangerous dog to be sterilized at the owner's expense. If the owner does not have the animal sterilized, the animal control authority may have the animal sterilized at the owner's expense.

(e) A person who owns a dangerous or potentially dangerous dog and who rents property from another where the dog will reside must disclose to the property owner prior to entering the lease agreement and at the time of any lease renewal that the person owns a dangerous or potentially dangerous dog that will reside at the property.

(f) A person who sells a dangerous or potentially dangerous dog must notify the purchaser that the animal control authority has identified the dog as dangerous or potentially dangerous. The seller must also notify the animal control authority in writing of the sale and provide the animal control authority with the new owner's name, address, and telephone number.

106A.19 Animal Breeders. Subdivision 1. Permit Required. No person, business, corporation or other entity may breed, whelp or raise dogs or cats for profit or sale within the City of Rochester unless the person, business, corporation or other entity has obtained a breeder's permit from the City.

Subd. 2. Application for Breeder's Permit. Anyone making application for a breeder's permit must provide the following information to the office of the City Clerk: Applicant's name, applicant's address, address of the location of where the breeding, whelping or raising will occur, the types and breeds of animals concerned and the numbers of adult animals to be kept for breeding purposes. The applicant must also demonstrate that the location where the breeding, whelping or raising will occur is suitably zoned for such activity or must obtain a variance from the City Council.

Subd. 3. Approval of Permit. After application for a breeder's permit has been made, a copy of the application shall be forwarded to the Animal Control Unit. The animal control unit will inspect the facility to assure that it is suitable for its intended purpose. The breeder's permit will be issued by the City Clerk's Office after the facility described in the application has been inspected and approved by the Animal Control Unit and after the applicant has paid the permit fee. The fee for a breeder's permit shall be set by resolution of the City Council.

Subd. 4. Permit Duration A Breeder's Permit once issued, will expire on January 31 of the second January after the issue date. The fee will be prorated at the rate of one twelfth of the annual fee for each of the remaining months of the year when the Breeder's permit is purchased.

Subd. 5. Inspection of Premises after Issuance of Permit. Any animal control officer, police officer, building inspector or other agent of the City of Rochester may inspect any premises licensed under this section at any reasonable time, with or without prior notice to determine whether or not conditions of the premises are maintained in a proper manner.

106A.20. Penalties. Unless otherwise specified, violations of this chapter are declared to be misdemeanor offenses and are punishable by a fine of up to \$1,000 and/or 90 days in jail.

106A.21. Quarantine of Unvaccinated Animal. The owner of an animal that inflicts a bite on a human shall provide to animal control evidence that the animal is current on its rabies vaccination. Animal Control may seize and hold such animal at the City's animal pound for a period of not less than 10 days if evidence of a current rabies vaccination is not presented or otherwise of record. The animal may be reclaimed by the owner upon

payment of impounding and boarding fees. An animal not reclaimed under this subdivision within seven days may be disposed of and the owner is liable to the animal control authority for costs incurred in confining and disposing of the animal.

(3093, 5/24/97; 3172, 5/4/98; 3430, 12/4/01; 3431,12/4/01; 3448, 2/20/02; 3739, 11/7/05; 3793, 11/6/06; 3801, 1/3/07)